IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.453 OF 2006

Manikrao S. Devkar & Ors. ....Appellants
V/s.
Nagnath N. Waghmare & Ors. ....Respondents

Smt.Shakuntala A. Mudbidri for the Appellants.

CORAM : S.J. VAZIFDAR, J.
DATED : 27TH AUGUST, 2007.

P.C. :

1. No question of law arises in this Second Appeal. It was the first Respondent/the Plaintiff's case that there was no partition between himself and Respondent No.2/Defendant No.1. Thus the sale of the joint family property by Respondent No.2/Defendant No.1 to the Appellants/Defendant Nos.2 and 3 was void. It was further contended that the Plaintiffs therefore have a right of pre-emption also.

2. On consideration of the evidence, both the Courts below had come to the conclusion that there was no partition. There is nothing to suggest that the learned Judges did not either consider or appreciate the evidence. What arises in this Second Appeal are only questions of fact.

3. In the circumstances, the Second Appeal is

dismissed.